

REMARKS

The present application relates to a method of treating or inhibiting the growth of cancer cells and associated diseases by administering certain substituted triazolopyrimidines.

Applicants request reconsideration and allowance of the application in light of the foregoing amendments and the following remarks.

Claims 2-4, 6-8, 10-12, 14-20, 22, 67, 70, 74-77, 79-81, 83-85, 87-93 and 95-97 are pending in the application. By the current amendment claim 70 is canceled, claims 2-4, 6-8, 11-12, 14, 16-18, 75-77, 79-81, 84-85, 87, and 89-91 are amended.

Applicants thank the Examiner for removing previous rejections under 35 USC 112, first paragraph.

In the office communication of May 26, 2004 the Examiner has rejected claims 2-4, 6-8, 10-12, 14-20, 67, 70, 74-77, 79-81, 83-85 and 87-93 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. In particular, the Examiner has rejected claims 2-4, 6-8, 11, 12, 14-18, 70, 75-77, 79-81, 84, 85, 87, 89-91 as indefinite because they recite moieties that are "optionally substituted" without reciting the intended substituents.

In response, applicants have amended claims 2-4, 6-8, 11-12, 14, 16-18, 75-77, 79-81, 84-85, 87, and 89-91 to insert definitions of intended substituents for "optionally substituted" as defined throughout the specification and in particular as defined on pages 70-74. Applicants have canceled claim 70. Applicants believe they have complied with 35 USC 112, second paragraph and respectfully ask the Examiner to reconsider and withdraw the rejection and allow claims 2-4, 6-8, 11-12, 14-18, 75-77, 79-81, 84-85, 87, and 89-91.

The Examiner has further rejected claims 10, 19, 20, 67, 74, 83, 88, 92 and 93 as being dependent on rejected claims 2, 70 or 75. Applicants believe they have complied with 35 USC 112, second paragraph rejection, by the amendments to claims 2 and 75. None of the

rejected dependent claims depend from canceled claim 70. Applicants believe amended claims 2 and 75 are allowable and therefore dependent claims 10, 19, 20, 67, 74, 83, 88, 92 and 93 should be allowable. Applicants respectfully ask the Examiner to reconsider and withdraw the rejection.

The Examiner has additionally rejected claims 2-4, 6-8, 10-12, 14-20 and 67 because they recite (or refer to) “and associated diseases”. The Examiner contends that the metes and bounds of “associated diseases” are unclear. In answer to the rejection, applicants have amended claim 2 to remove the phrase “and associated diseases”.

Applicants believe they have complied with 35 USC 112, second paragraph by the amendments to claim 2 and therefore dependent claims 3-4, 6-8, 10-12, 14-20, 22 and 67 should also be allowable. Applicants respectfully ask the Examiner to reconsider and withdraw the rejection.

Nonstatutory double patenting


The Examiner has rejected claim 70 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 5,948,783; claims 8-13 of U.S. Patent No. 6,020,338; claims 4-6 of U.S. Patent No. 6,117,876; claim 4 of U.S. Patent No. 6,255,309; and claim 9 of U.S. Patent No. 6,297,251. The Examiner contends that while conflicting claims are not identical, they are not patentably distinct from each other because the fungicidal composition recited in the above described claims in the above presented U.S. Patents anticipate the pharmaceutical composition recited in claim 70 of this application.

Without implying any agreement with the Examiner and in an effort to expedite prosecution of the application, applicants have canceled claim 70. Applicants believe that the rejection for nonstatutory double patenting is moot.

In conclusion, applicants believe amended claims 2-4, 6-8, 11-12, 14, 16-18, 22, 75-77, 79-81, 84-85, 87, and 89-91, original claims 15, 67 and 88 and previously presented claims 10, 19-20, 22, 74, 83, 92-93, and 95-97 should be allowable based on previous remarks.

Applicants respectfully request that the Examiner enter the amendment, reconsider the rejections in light of the remarks herein and amendments to the claims, and allow the application. Favorable treatment is earnestly solicited.

Respectfully submitted,



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